***THE HON'BLE SRI JUSTICE N.V. RAMANA**

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+WRIT PETITION NO.18467 OF 2001

%Dated 16.03.2006

B. Dass, S/o late Lingaiah, Conductor, E.No.105855, R/o 3-109,

Abdullapur Mett, Mandal: Hayathnagar, District Rangareddy.

..... PETITIONER

VERSUS

$ 1 The APSRTC, rep. By its Managing Director, Musheerabad,

Hyderabad and another.

.....RESPONDENTS

! Counsel for Petitioner: Sri V. Narasimha Goud

^ Counsel for Respondents: Standing Counsel for APSRTC

< GIST:

> HEAD NOTE:

? Cases referred:

1. 2000 (2) ALD 370

THE HON'BLE SRI JUSTICE N.V. RAMANA

W.P. No. 18467 of 2001

O r d e r:

The petitioner joined the service of the respondents as Conductor on 09.01.1984. On the ground that he is suffering from health problems, he submitted his resignation letter on 01.08.2001. On 31.08.2001, the petitioner withdrew his resignation. However, on the day the petitioner withdrew the resignation, respondent No.2 issued proceedings dated 31.08.2001 informing him that in terms of Regulation 6(B) of the APSRTC Employees (Service) Regulations, 1964 (for short 'the Regulations'), his resignation has been accepted. Assailing these proceedings, the petitioner filed the present writ petition.

The learned counsel for the petitioner submitted that the petitioner submitted his resignation on 01.08.2001, and as per Regulation 6(B) of the Regulations, an employee intending to leave the service, has to give one month notice to the competent authority, and inasmuch as the petitioner before expiry of the said notice period, had withdrawn his resignation, respondent No.2 could not have issued the impugned proceedings accepting his resignation. In support of his submission that the petitioner is entitled to withdraw the resignation before its acceptance and before expiry of the notice period, he placed reliance on the judgment of this Court in **Khaja Masiuddin v. Andhra Pradesh State Road Transport Corpn.**. He thus prayed that the impugned proceedings be set aside and the writ petition allowed.

Though the writ petition was admitted as far back as on 10.10.2001, the respondents did not file counter till date. However, on the directions of this Court, the learned Standing Counsel for the respondents produced the original record, relating to the resignation and its acceptance.

On the basis of the record and para-wise remarks, the learned Standing Counsel for the respondents submitted that the petitioner submitted his resignation letter on 01.08.2001, and the said letter was processed for acceptance. The petitioner was advised to pay one month salary in lieu of one month notice period, but the petitioner saying that he will get the salary in the evening, disappeared. On the very same day, the respondents accepted his resignation w.e.f. 01.08.2001, and a copy of the acceptance proceedings, was sent to the residential address of the petitioner as the petitioner did not turn up after submitting his resignation letter. On 31.08.2001 the petitioner came to the office and stated that he intends to withdraw his resignation and submitted withdrawal letter dated 31.08.2001, but he was informed that his resignation was already accepted. As the petitioner complained that the acceptance letter was not communicated to him, the respondents served a copy of the acceptance proceedings on 31.08.2001. He contended that the petitioner having submitted his resignation, contested elections to the office of the Sarpanch, Gram Panchayat, Abdullapurmet, held on 14.08.2001 on Chair symbol, and having lost the election, he submitted application dated 31.08.2001 stating that he intends to withdraw his resignation letter dated 01.08.2001, and as the respondents had already accepted his resignation, no exception can to be taken to the action of the respondents in not considering the same.

Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondents.

A perusal of the record produced by the respondents would disclose that the petitioner submitted his resignation letter on 01.08.2001 to the Depot Manager, stating that he is suffering from health problems and due to ill-health, he is unable to attend the duties, and therefore, he has taken a decision to resign, and accordingly, requested him to accept his resignation as Conductor, and relieve him from the job responsibility and pay him all the service benefits as early as possible. On the very same day, the respondents accepted the resignation of the petitioner w.e.f. 01.08.2001 and forfeited the security deposit in lieu of one month notice period. The fact that the petitioner's resignation was accepted w.e.f. 01.08.2001 and his security deposit in lieu of one month notice period salary was forfeited, is evident from the office order dated 01.08.2001, issued by the Depot Manager, accepting the resignation of the petitioner, which reads thus:

> Sri. B. Dass E:105855 Conductor of Hyd-2 Depot has submitted application on 01.08.2001 requesting permission to resign from the services of the Corporation.
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> The resignation tender by Sri B. Dass E:105855 Conductor of Hyd-2 Depot is accepted w.e.f. 01.08.2001 AN in terms of Regulation 6(B) of APSRTC Employees (Service) Regulations, 1964.
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> The security deposit is forfeited to the Corporation since the party has not paid one month salary in lieu of notice. Hence one month salary be recovered from his settlement dues.

As the petitioner after submitting the letter of resignation is said to have disappeared, the respondents had sent the office order accepting his resignation to his residential address, and this is evident from the fact that the said letter of acceptance is addressed to H. No. 3-109, Abdullapurmet village, Kawadpally Post,

Hayatnagar Mandal, Rangareddy District, which is the same as mentioned in the cause title to the writ petition. Apart from sending the office order to the residential address of the petitioner, the record discloses that the office order was even exhibited in the Notice Board of the respondents, and the factum of this is even acknowledged by two employees. However, on 31.08.2001 when the petitioner came to the office and sought to withdraw his resignation and submitted letter dated 31.08.2001, the respondents informed him that his resignation letter was accepted, and when he contended that the order of acceptance was not served on him, the respondents while stating that it was sent to his residential address, again served a copy of the same, which was acknowledged by him. The fact that the petitioner was not attending to duties even prior to his resignation letter dated 01.08.2001 is evident from the attendance sheet of the Attendance Register for the month of July, 2001, which discloses that the petitioner was absent for the entire month, and as he has resigned from service, upon acceptance of his resignation, the respondents have even closed the muster roll.

Though the petitioner tendered his resignation on the ground that he is suffering from ill-health and unable to attend duty, the fact remains, the petitioner after submitting his resignation letter on 01.08.2001, contested elections to the post of Sarpanch, Gram Panchayat, Abdullapurmet, held on 14.08.2001 with Chair symbol, and this is evident from the fact that in response to the letter dated 06.09.2001 of the Depot Manager, the Mandal Parishad Development Officer, Mandal Parishad, Hayathnagar, vide his letter dated 11.09.2001 informed that the petitioner contested with symbol of Chair to the office of Sarpanch, Gram Panchayat, Abdullapurmet, held on 14.08.2001 and was defeated. Obviously, the petitioner submitted his resignation only to contest the election and not because he was suffering from ill-health and was unable to attend to duties, and having lost the election, has come up with the theory that he is entitled to withdraw his resignation any time before expiry of the notice period.

At any rate, the resignation of the petitioner having been accepted on 01.08.2001 itself, no exception can be taken to the action of the respondents in not permitting the petitioner to withdraw his resignation in pursuance of the withdrawal letter dated 31.08.2001. Though the petitioner contends that as per
Regulation 6(B) of the Regulations, an employee is entitled to withdraw the resignation even before expiry of the notice period, the fact remains, on the request of the petitioner, the respondents accepted his resignation immediately, and in lieu of one month notice period, they forfeited the security deposit to the Corporation, and this is evident from the office order accepting his resignation. In that view of the matter, reliance placed by the learned counsel for the petitioner on the judgment of this Court in **Khaja Masiuddin v. Andhra Pradesh State Road Transport Corpn.,** does not assist the petitioner in any manner for the reason that in the said case, the petitioner withdrew the resignation before its acceptance, but that is not the case on hand. In the instant case, as stated above, the resignation of the petitioner was accepted by the respondents on the day on which he submitted it, namely on 01.08.2001, and therefore, he cannot contend that he is entitled to withdraw the same any time during the one month notice period, and more so when his security

deposit, as stated above, was forfeited in lieu of one month's notice period. Therefore, no exception can be taken to the office order passed by the respondents accepting the resignation of the petitioner.

Be that as it may, during the pendency of the writ petition, it is stated that the petitioner's resignation having been accepted by him, and as requested by him in his resignation letter, the respondents having settled the service benefits, also paid the same to him.

For the foregoing reasons, the writ petition is devoid of merit, and the same is accordingly dismissed. No costs.

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N.V. RAMANA, J.

Date: 16th March, 2006.

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